

Well Drilling and Irrigation Industry

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This information guide provides an overview of how Nebraska sales and use tax law applies to the well drilling and irrigation industry. It is not designed to answer all questions which might arise, but is intended to enable a person to become familiar with the main applications of the sales and use tax program to these industries.

Overview

Well drillers are contractors when they perform **ANY** of the following construction services:

- ✓ annexing building materials (e.g. casing) and fixtures (e.g. pumps) to real estate, including leased property; or
- ✓ repairing a well, or fixtures in a well.

All contractors, including well drillers, are retailers of their construction services (e.g. construction labor).

Please note: Where the term “contractor” is used in this information guide, it means any well driller performing construction services.

All contractors, must collect and remit the appropriate sales and use tax based on:

- the type of construction project; and
- the contractor option chosen.

In addition, all contractors must:

- ✓ obtain a Nebraska Sales Tax Permit by filing a Nebraska Tax Application, Form 20;
- ✓ choose a contractor option by filing a Nebraska Sales and Use Tax Election for Contractors and Repairpersons, Form 16; and
- ✓ collect and remit Nebraska and local sales and use tax based on the type of construction project and contractor option chosen.

Definitions

Contractor is any person who repairs property annexed to real estate; who annexes building materials and fixtures to real estate; or who arranges for such annexation.

Building materials are those items that will become real estate or are annexed to real estate. *Examples include well casing, sand and gravel, concrete, bentonite, and electrical panels.*

Fixtures are items that must be annexed to a building or structure in order to properly function yet remain identifiable as separate items. *Examples include pumps, column tube shafts, oil tube shafts, oil assemblies, heads, couplers, air valves, faucet fittings, pressure gauges, swing check valves, gear heads, flow meters, shafts and covers, electric motors, and gas and diesel engines.*

Over-the-counter sales are transactions where the terms of the sales agreement do not require the seller to annex building materials or fixtures to real estate, or to arrange for such annexation.

Example: Customer buys a pressure gauge, takes it home and either installs it, or makes arrangements with someone other than the seller to annex it.

Tools and Supplies

Well drillers must pay sales and use tax on equipment, tools, and supplies purchased, leased, or rented that are used to complete a well drilling contract, regardless of the option chosen. This includes equipment, tools, and supplies used to complete projects for an exempt entity such as a church, school, or governmental unit. *Examples include backhoes, drilling rigs, bits, and lubricants.*

Contractor Options

The options apply only to agreements or contracts to:

- annex (attach) building materials to real estate; (e.g. drilling and casing a well)
- repair a structure (e.g. well); or
- repair building materials that are or will be annexed to real estate. (e.g. repair a pump)

Please note: The options **DO NOT** apply to over-the-counter sales, or to sales of irrigation systems, either gravity or sprinkling systems.

The options determine two things:

- ✓ how sales and use tax will be paid or collected by the well driller on building materials and fixtures; and
- ✓ how sales tax will be collected from the customer by the well driller on certain types of projects.

Option 1. The well driller maintains a tax-free inventory of building materials and fixtures, and may purchase such items tax-free by giving a properly completed Nebraska Resale or Exempt Sale Certificate, Form 13, Section C, block 1, to the supplier.

Option 2. The well driller is the consumer of all building materials and fixtures annexed to real property, and maintains a tax-paid inventory of such items by paying tax to the supplier at the time of purchase; or if purchasing such items from an out-of-state supplier, by remitting consumer's use tax.

Option 3. The well driller maintains a tax-free inventory of building materials and fixtures. However, under this option the well driller is the consumer of all building materials and fixtures annexed to real property, and will remit consumer's use tax on the cost of such items when they are withdrawn from inventory. The well driller may purchase such items tax-free by giving a properly completed Form 13, Section C, block 1, to the supplier.

Additional information on the contractor options is available in the Nebraska Taxation of Contractors - General Information Guide.

Construction Projects

Charges for construction services (e.g. contractor labor charges) are taxable, unless the project meets one of the criteria for an exempt labor project listed below:

Exempt Labor Projects

- First or original drilling of a well, including replacement wells;
- Finishing an unfinished portion of a well; or
- Restoration, reconstruction, or replacement of a well damaged or destroyed by fire, flood, tornado, lightning, explosion, ice, storm, or natural disaster.

Taxable Labor Projects

Projects that **DO NOT** meet one of the exempt labor project criteria are **TAXABLE LABOR PROJECTS**.

Billing the Customer

Well drillers must first determine if their customer is another contractor (e.g. subcontractor working for a general contractor), or the project owner (e.g. well owner).

BILLING THE PROJECT OWNER

When billing the project owner, three criteria determine if sales tax will be collected from the customer, and if the well driller owes tax on the cost of building materials and fixtures:

1. the option chosen by the well driller;
2. the type of well (e.g. residential or agricultural); and
3. the type of project - taxable labor project or exempt labor project.

Commercial or Residential Well

Exempt labor project (e.g. new or replacement well)

Option 1 – The well driller will collect sales tax from the well owner on the total charge for building materials and fixtures.

The well driller will **NOT** collect sales tax on the charges for construction services (e.g. drilling labor) **PROVIDED** they are separately stated on the well owner's invoice.

Option 2 and 3 – The well driller will **NOT** collect sales tax from the well owner on any charges associated with drilling the well.

Taxable labor project (e.g. repair – pull pump, inner column repair, reinstall pump)

Option 1 – The well driller will collect sales tax from the well owner on the total charge.

Option 2 and 3 – The well driller will collect sales tax from the well owner using the appropriate contractor labor percentage to calculate the tax (see "Contractor Labor Percentage" section of this guide).

Agricultural Well

Exempt labor project (e.g. new or replacement well)

Option 1 – The well driller will collect sales tax from the well owner on charges for building materials (e.g. casing, gravel pack).

The well driller will **NOT** collect sales tax from the well owner on fixtures (e.g. pump, oil assemblies) **PROVIDED** the well driller receives a properly completed Form 13, Section B, Category 2 from the well owner.

The well driller will **NOT** collect sales tax on the charges for construction services (e.g. drilling labor) **PROVIDED** they are separately stated on the well owner's invoice.

Option 2 and 3 – The well driller will **NOT** collect sales tax from the well owner.

The well drillers owe tax on their cost of building materials and fixtures.

The Form 13, Section B, is not valid, and may not be accepted by Option 2 or 3 well drillers drilling agricultural wells.

Taxable labor project (e.g. repair – pull pump, inner column repair, reinstall pump)

Please note: The Form 13, Section B, Category 2 is not valid for repair of agricultural wells.

Option 1 – The well driller will collect sales tax from the well owner on the total charge.

Option 2 and 3 – The well driller will collect sales tax from the well owner using the appropriate contractor labor percentage

to calculate the tax (see “Contractor Labor Percentage” section below).

CONTRACTOR LABOR PERCENTAGE

Option 2 or 3 well drillers working on **taxable labor projects** must use one of four contractor labor percentages to properly calculate the amount subject to sales tax, and the amount of sales tax to be collected from the well owner.

The percentage is determined by the sales tax rate in effect at the project site (location of well).

- ✓ Where the sales tax rate is 5.5% the percentage is 57.8.
- ✓ Where the sales tax rate is 6% the percentage is 57.6.
- ✓ Where the sales tax rate is 6.5% the percentage is 57.4.
- ✓ Where the sales tax rate is 7% the percentage is 57.2.

The formula to be used to properly calculate the amount subject to sales tax and the amount of sales tax to be collected from customers is:

Total amount charged x percentage x tax rate = sales tax to collect from customer.

Please note: These percentages are used **ONLY** by Option 2 or 3 well drillers billing the well owner on a taxable labor project.

The following example illustrates the formula:

An Option 2 or 3 well driller pulls old pump from an irrigation well and upgrades it. The well is located outside the city limits:

| | |
|---------------------------|-----------------|
| Pull pump | \$ 1,500.00 |
| Inner column repair labor | 5,000.00 |
| Install new pump | <u>3,500.00</u> |
| Subtotal (gross) | \$10,000.00 |
| Sales tax | <u>317.90</u> |
| Total due | \$10,317.90 |

$$\$10,000 \times .578 \times .055 = \$317.90$$

BILLING A CONTRACTOR (e.g. subcontractor billing a general contractor)

Contractors may resell their labor (construction services) tax-free to other contractors **PROVIDED** the billing contractor (e.g. subcontractor) receives a properly completed Form 13, Section C, block 2, from the buying contractor (e.g. general contractor).

Option 1 – The well driller will **NOT** collect tax from the general contractor on the labor charges **PROVIDED** a properly completed Form 13, Section C, block 2, is received from the general contractor and **provided** the labor charges are separately stated.

The well driller will collect tax on the total charge for building materials and fixtures.

Option 2 and 3 – The well driller will **NOT** collect tax from the general contractor on any portion of the bill **PROVIDED** a properly completed Form 13, Section C, block 2, is received from the general contractor.

REPORTING THE TAX

Well drillers will report and remit the tax on a Nebraska and Local Sales and Use Tax Return, Form 10. In order to properly complete

the Form 10, well drillers must start with Schedule III which is on the back of Form 10.

Lines 1-15 of Schedule III are used to calculate any difference between gross receipts and the net taxable amount (the amount subject to sales tax).

Lines 16-21 of Schedule III are used to calculate any consumer’s use tax a well driller may owe.

Contracts With Exempt Entities

Well drillers, drilling or repairing wells for entities that are exempt from sales tax must obtain appropriate documentation from the exempt entity in order to purchase building materials and fixtures tax-free, and in order to support why sales tax was not collected from the exempt entity.

This documentation **MUST** be obtained **BEFORE** work (e.g. drilling) starts, and this documentation may be used **ONLY** for making tax-free purchases of building materials and fixtures annexed into the well site.

The following Nebraska Sales and Use Tax Regulations state which entities are exempt from sales and use tax:

- 1-090 Nonprofit Organizations;
- 1-091 Religious Organizations;
- 1-092 Educational Institutions; and
- 1-093 Governmental Units.

Please note: Governmental units that provide gas, water, electricity, or heat (e.g. utilities) are not exempt from tax.

Option 1 – Well drillers must **GIVE** a Form 13, Section C, block 1, to their suppliers in order to purchase building materials and fixtures tax-free.

Well drillers working directly for an exempt entity must **OBTAIN** a properly completed Form 13, Section B, from the exempt entity to support why sales tax was not collected from them.

Option 2 – Well drillers working directly for an exempt entity must **OBTAIN** a properly completed Form 17 from the exempt entity.

Well drillers must **GIVE** a copy of the Form 17, along with a Form 13, Section B (completed by the well driller) to the supplier in order to purchase building materials and fixtures tax-free.

Well drillers must **OBTAIN** a properly completed Form 13, Section B, from exempt entities to support why sales tax was not collected from them on the labor charges.

Option 3 – Well drillers working directly for an exempt entity must **OBTAIN** a properly completed Form 17 from the exempt entity.

Well drillers must **GIVE** a Form 13, Section C, block 1, to their suppliers in order to purchase building materials and fixtures tax-free.

Well drillers must **KEEP** a copy of the Form 17, in their records to support why they do not owe consumer’s use tax on their cost of building materials and fixtures.

Well drillers must OBTAIN a properly completed Form 13, Section B, from exempt entities to support why sales tax was not collected from them on the labor charges.

Irrigation Systems

Gravity and sprinkling irrigation systems, including any above or below ground pipe running from the wellhead to the center pivot, are tangible personal property.

Sales and installation of such systems are considered retail sales. They are not considered construction services, even when sold and installed by Option 1, Option 2, or Option 3 well drillers. Therefore, well drillers must collect sales tax on the materials and labor charges for installing such systems, unless the purchaser provides a properly completed Form 13, Section B, category 2.

Labor Charges to Install Irrigation Systems. Generally, installation labor charges for tangible personal property are subject to sales tax. However, installation labor charges for attaching a center-pivot system to a power source or to equipment that transports water; or assembly labor charges (e.g. assembling

parts, components, and subassemblies of a center-pivot system) are **exempt** when supported by a properly completed Form 13, Section B, category 2.

Repair of Irrigation Systems. The total amount charged (materials and labor) to the customer for the repair of an irrigation system is taxable, unless the labor amount is separately stated. If the labor amount is separately stated, only the charge for materials is taxable. The Form 13, Section B, Category 2 is NOT valid in this situation.

General Information

Obtaining a Permit. A Nebraska Sales Tax Permit is obtained by completing and returning a Nebraska Tax Application, Form 20, to the department.

Remitting the Tax. Nebraska and applicable local sales tax collected by well drillers, businesses and individuals that sell irrigation systems, and anyone making over-the-counter sales; and Nebraska and applicable local consumer's use tax is remitted by filing a Nebraska and Local Sales and Use Tax Return, Form 10.

FOR NEBRASKA TAX ASSISTANCE

For All Tax Programs Except Motor Fuels

Contact your regional office or call **1-800-742-7474** (toll free in NE and IA)
or **1-402-471-5729**

Nebraska Department of Revenue Web site address: www.revenue.ne.gov

A copy of the Taxpayer Bill of Rights is available by calling any of our regional offices or visiting our Web site.

SCOTTSBLUFF

Panhandle State Office Complex
4500 Avenue I, Box 1500
Scottsbluff, Nebraska 69363-1500
Telephone (308) 632-1200

NORTH PLATTE

Craft State Office Building
200 South Silber Street
North Platte, Nebraska 69101-4200
Telephone (308) 535-8250

GRAND ISLAND

TierOne Bank Building, Suite 460
1811 West Second Street
Grand Island, Nebraska 68803-5469
Telephone (308) 385-6067

NORFOLK

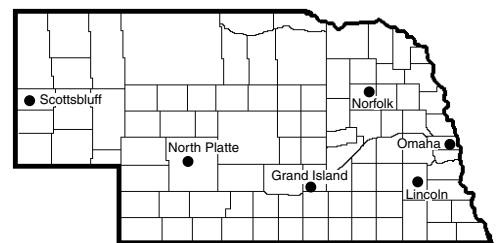
304 North 5th Street, Suite "D"
Norfolk, Nebraska 68701-4091
Telephone (402) 370-3333

OMAHA

Nebraska State Office Building
1313 Farnam-on-the-Mall
Omaha, Nebraska 68102-1871
Telephone (402) 595-2065

LINCOLN

Nebraska State Office Building
301 Centennial Mall South
Lincoln, Nebraska 68509-4818
Telephone (402) 471-5729



For Motor Fuels tax programs only call toll free 1-800-554-3835 (Lincoln residents call 471-5730).

Hearing-impaired individuals may call the Text Telephone (TT) at 1-800-382-9309. TDD (Telecommunications Device for the Deaf) is designated by the use of "TT," which is consistent with the Americans with Disabilities Act.